

knowledge and a good faith belief, certifies that the bill is truthful and accurate, and that the services and charges set forth herein comply with the terms of engagement and the policies set forth in the Department of Energy's regulation and guidance on contractor legal management requirements, and that the costs and charges set forth herein are appropriate and related to the representation of the client." The certification must be signed and dated by a representative of the retained legal counsel. Invoices must contain all elements (e.g., date of service, description of service, name of attorney, etc.) set forth in the model bill format in Appendix A to this part.

(12) A statement setting forth agreement to identify and address promptly any professional conflicts of interest.

(c) There may be additional requirements for an engagement letter based on the needs of the contractor or the Departmental element requiring the services of the Department retained legal counsel.

Subpart D—Requests From Contractor Counsel To Initiate, Defend, and Settle Legal Matters

§ 719.30 In what circumstances may the contractor initiate litigation, including appeals from adverse decisions?

(a) The contractor must provide written notice to Department Counsel prior to initiating litigation or appealing from adverse decisions.

(b) The contractor may not initiate litigation for which it seeks reimbursement without prior written authorization of Department Counsel.

(c) The following information must be provided to Department Counsel by the contractor prior to initiating litigation or appealing an adverse decision:

- (1) Identification of the proposed parties;
- (2) The nature of the proposed action;
- (3) Relief sought;
- (4) Venue;
- (5) Proposed representation and reason for selection;
- (6) An analysis of the issues and the likelihood of success, and any time

limitation associated with the requested approval;

(7) The estimated costs associated with the proposed action, including whether outside counsel has agreed to a contingent fee arrangement;

(8) Whether, for any reason, the contractor will assume any part of the costs of the action;

(9) A description of any attempts to resolve the issues that would be the subject of the litigation, such as through mediation or other means of alternative dispute resolution; and

(10) A discussion regarding why initiating litigation would prove beneficial to the contractor and to the Department.

§ 719.31 When must the contractor initiate litigation against third parties?

The contractor must initiate litigation, upon the request of the contracting officer, against third parties including proceedings before administrative agencies, in connection with the contract. The contractor shall proceed with such litigation in good faith and as directed from time to time by Department Counsel.

§ 719.32 What must the contractor do when it receives notice that it is a party to litigation?

(a) The contractor shall give the contracting officer and Department Counsel immediate notice in writing of any legal proceeding, including any proceeding before an administrative agency and any claim which will be handled by a retrospective insurance carrier if costs (including Legal costs, settlements, claims paid, damages, etc.) are likely to be \$100,000 or more, filed against the contractor arising out of the performance of the contract and shall provide a copy of all relevant filings and any other documents that may be requested by the contracting officer and/or Department Counsel. The Department Counsel will direct the contractor as to:

(1) Whether the contractor must authorize the Government to defend the action;

(2) Whether the Government will take charge of the action; or